

R E M A R K S

U P O N

The annexed Bill, to clear up the Objection made to that Part of it, whereby Remainders are supposed to be limited to the First and other Sons of Lord Caher, in Contradiction to an Act of Parliament in Ireland, for Gaveling the Estate of Roman Catholics in that Kingdom.

IT appears by the Bill, and has been clearly made out, in the Progress of this Bill, to the intire Satisfaction, not only of the Judges, but of the Committees in both Houses of Parliament, to whom it stood referred, that the present Value of the several Lands in Question amounts only to the Sum of 3330 *l.* 9 *s.* 9 *d.* out of which the Sum of 166 *l.* 10 *s.* being deducted on account of Receivers Fees, and the further Sum of 86 *l.* 1 *s.* 2 *d.* for Quit-rents and Chief-rents, the net yearly Proceed will remain at 3077 *l.* 18 *s.* 7 *d.* which, to be sold at the Rate of Twenty Years Purchase, can produce no more than the Sum of 61558 *l.* 11 *s.* 8 *d.*

It has been further made appear, the Debts affecting the Estate before the Time of entering into the within-mentioned Articles, which have created so great Confusion in the Family, and first laid them under the unhappy Necessity of this Application for Relief to the Legislature, amounted to no less than the Sum of 20632 *l.* 2 *s.* 2 *d.* and the annexed Estimate will as clearly shew, that the several Charges and Incumbrances since created or occasioned by these ill-drawn Articles, together with the Life-Estate of Lord Caher, cannot, at a reasonable *Medium*, be computed under the Sum of 40579 *l.* 5 *s.* 2 *d.* the Total of which, making up the Sum of 61211 *l.* 7 *s.* 4 *d.* will leave the Surplus at about 6347 *l.* 4 *s.* 4 *d.* or, considered as a Landed Estate, as what may produce 317 *l.* a Year.

Now as this Surplus, whether it be considered as Land or Money, is the only Interest upon which the said Limitations in Remainder can be said to operate, or to which the fore-mentioned Objection can in any Sort be applied upon this Occasion, it will be necessary to observe, that the Life-Estate or Remainder, carved out in this Case to the eldest Son, would, at the Rate of Ten Years Purchase only, sell for 3173 *l.* 12 *s.* 2 *d.* even at the high Price Lands now sell for in that Kingdom.

But should the present War produce the same Consequences with the last War, in respect to the Trade and Credit in *Ireland*, and the Value of Lands there again fall from the Rate of Twenty to Fourteen Years Purchase, which was the known Market Price before the Peace of *Utrecht*, or but to Seventeen Years Purchase, the Value of his Life Estate in this Surplus, or even the whole Inheritance of it, might be reduced to nothing, within the Time necessary for carrying the Trusts of this Bill into Execution.

If in this Light, and under these Contingencies, the Limitations dealt out by this Bill to the eldest Son, and his Issue Male be compared with, and set in Opposition to the Value of the subsequent Remainders to the other Children, and the Portions secured to them, independently of any Contingency whatsoever, the Provisions and Distributions thus made in this Family must appear at least equivalent to, and as restrictive in Substance, as any Gavel that could be proposed to be made of the Remnant of this Estate, as the eldest Son will be found to be left upon an equal, if not a worse foot with the rest of the Children.

But that there was, even in this Case, no Intention either to evade or to elude the Purview of that Act of Parliament, must still further appear, by considering how impossible it was, under the great Uncertainties, what the said Surplus might amount to, or whether, in the End, it might be of any Value whatever, to have limited the Surplus in any other manner than what is now objected to, without the most manifest Injury to the eldest Son, and putting him into a worse Situation than the Gavel Act itself ever directed or intended. For, besides that this Act expressly allows him to qualify himself to inherit the Whole, by conforming himself to the Established Church at any Time during the First Year after his Father's Death, yet, even in case of Non-conformity, it lets him into an equal Proportion with the rest: Whereas, in the present Case, there being a certain Provision, at all Events, made for the rest of the Children, both by the Articles and the Bill, and none at all for him, unless the aforesaid or some Limitation like it should be inserted in the Bill now depending, they would be at Liberty to claim an equal Share in whatever this contingent Surplus might produce, without his being able to come in for the least Part of the Portions secured to them. But it must be further observed, in settling this contingent Surplus, which possibly may produce no Benefit in the End, the strictest Regard has been observed to the Spirit and Meaning of the Gavel Act, which the Nature of this Case could possibly admit, by making him only bare Tenant for Life, and putting it out of his Power to deprive the other Children of that Surplus, whatever it shall be, in case he should die without Issue Male.

Upon the whole Circumstances of the Case, as this unfortunate Family have been under a Necessity of applying to Parliament, in order to extricate themselves from the many Difficulties and Perplexities introduced by the Blunders and Mistakes of those injudicious Articles, and to do speedy Justice to their Creditors, who are most of them Protestants, and without this Method may perhaps never come at their full Demands, not only in respect of the Covenants in the said Articles, but also of some dormant Articles, which lately appeared to have been executed upon the Intermarriage of the said Lord *Caber*; by which the eldest Son might claim an equitable Remainder in their Prejudice, but which are both provided against by this Bill; and that there is no Inlargement or Acquisition of any new Interest or Estate aimed at or intended; but that possibly the eldest Son may be in a worse Condition than the other Children;

It is most humbly hoped, that this will not only appear a *reasonable*, but a *necessary* Bill that deserves the Compassion and Interposition of the Legislature as it now stands. And the rather, that where the Value of the Estate has been much more considerable, there are many other Instances where the Legislature, in both Kingdoms, have been pleased to give a Sanction to the strict Settlements in *Roman Catholick* Families. And that this noble, but now reduced Family, most humbly apprehend themselves, in Equity, intitled to the like Indulgence from their constant Duty and Loyalty at all Times to the Crown of *England*, ever since they were first honoured with the Peerage in *Ireland* by her Majesty Queen *Elizabeth*, for their great and important Services in completing the Reduction of that Kingdom to her Obedience and Government.



A Rent-roll of Lord Caber's Estate for One Year, ending March 25. 1744.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
To One Year's Rent due then of all his Tenants in the Kingdom of Ireland, per the Rent-roll	3330	9	9
Quit-rent, Crown-rent, and Chief-rent, payable thereout yearly,	86	1	2
Receiver's Salary, at 12 <i>d.</i> per Pound	166	10	0
	252	11	2
Net Rent yearly	3077	18	7
3077 <i>l.</i> 18 <i>s.</i> 7 <i>d.</i> to be sold immediately, at Twenty Years Purchase, comes to	61558	11	8
To Mrs. Butler's Fortune, in the Trustees Hands, to be applied, when received, in Discharge of the Debts,	6000	0	0
	67558	11	8

N. B. That in case the Estate should go in strict Gavel, there would be no Foundation, in Justice or Equity, to apply the 6000 *l.* in Discharge of the Incumbrances, for the Benefit of the younger Children.

The Debts and Incumbrances affecting Lord Caber's Estate.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Due of him by Mortgages and Judgments, as proved before the Judge and Committees of both Houses	20632	2	2
To the Portions of Lord Caber's younger Children per the Bill	10000	0	0
To the 10000 <i>l.</i> Portions of the younger Children of the Honourable James Butler, Esq; per Bill, computed at	5000	0	0
To the Value of his Lady's Jointure, now at Six Years Purchase, being 800 <i>l.</i> per Annum, in case she survives him	4800	0	0
To the Value of Lord Caber's Life-Estate, amounting yearly (the Interest of the aforesaid Mortgages and Judgments deducted) to 2077 <i>l.</i> 18 <i>s.</i> 7 <i>d.</i> at Ten Years Purchase	20779	5	2
	61211	7	4
To Balance	6347	4	4
	67558	11	8

REMARKS

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